

STATE OF ALABAMA
OFFICE OF THE SECRETARY OF STATE
CIVIL-LAW NOTARIES DIVISION
ADMINISTRATIVE CODE

CHAPTER 820-6-1
CERTIFICATION

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820-6-1-.01 Application.

(1) Alabama Civil-Law Notaries appointed pursuant to this rule may continue to use the title "Alabama International Notary" wherever that title is used or required to be used under this rule. Persons wishing to be appointed by the Secretary of State as Alabama Civil-Law Notaries may request an application by writing to the following address and requesting a Form ACLN-1 "Application for Appointment as an Alabama Civil-Law Notary" which form is appended to this Division. All other forms discussed in this rule may be obtained by writing the same address:

Office of the Secretary of State
Legal Division
P.O. Box 5616
Montgomery, AL 36103

(2) The application to become an Alabama Civil-Law Notary must be complete and on the Form ACLN-1 prescribed by the Secretary of State as set forth in the Appendix to this Division. The application must be accompanied by:

(a) A certificate of good standing from the Supreme Court of Alabama issued within 90 days of the date of application showing that the applicant is currently a member of the Alabama Bar and has been a member of the Alabama Bar for at least five years.

(b) An application processing fee in the amount of one hundred dollars.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

Ed. Note: Formerly 820-X-12-.01, as per certification filed January 10, 2001; effective February 14, 2001.

820-6-1-.02 Appointment, Revocation, Voluntary Resignation.

(1) Upon completion of each examination session and after the examinations are scored, the testing authority shall promptly forward the examination results to the Office of the Secretary of State. The Office of the Secretary of State shall then notify the applicants of their respective test scores and shall appoint those persons with satisfactory scores of 70% as Alabama Civil-law Notaries.

(2) Upon accepting appointment as an Alabama Civil-law Notary, the applicant shall file within 90 days after appointment with the Office of the Secretary of State a Form ACLN-2 prescribed by the Secretary of State titled "Appointment of Protocol Custodian and Seal Filing," which form is set forth in the Appendix to this Division. The applicant shall identify an Alabama Civil-law Notary in good standing with the Office of the Secretary of State and the Alabama Bar who has agreed to take custody of the applicant's protocol in the event that the applicant's appointment is ever suspended or revoked, or if the applicant dies or becomes incapacitated. If for any reason an Alabama Civil-law Notary chooses to change secondary custodial notaries, the Alabama Civil-law Notary shall promptly notify the Office of the Secretary of State in writing and shall make the appropriate change in the civil-law notary's annual report.

(3) Unless suspended or revoked in accordance with this rule, an appointment as an Alabama Civil-law Notary shall continue in force for so long as the applicant is a member in good standing of the Alabama Bar, subject to the requirement that the applicant must file an annual report with the Office of the Secretary of State at the address noted above on a Form ACLN-3 prescribed by the Secretary of State entitled "Alabama Civil-law Notary Annual Report," which form is set forth in the Appendix to this Division. The annual report shall include the civil-law notary's current business address and telephone number and the identity and signature of another Alabama Civil-law

Notary who has agreed to take custody of the civil-law notary's protocol upon the suspension, revocation, incapacitation or death of the civil-law notary. A processing fee payable to the Office of the Secretary of State in the amount of one hundred dollars shall accompany the annual report. The annual report shall be received and filed by the Office of the Secretary of State last business day of January. Failure to file an annual report with the Office of the Secretary of State by the last business day of January shall result in a late fee of twenty-five dollars per calendar day late through the last business day of February after which the civil-law notary's appointment shall be revoked.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

Ed. Note: Formerly 820-X-12-.04, as per certification filed January 10, 2001; effective February 14, 2001.

820-6-1-.03 Discipline; Suspension And Revocation.

(1) An Alabama Civil-law Notary shall be disciplined for violation of these rules. All complaints to the Office of the Secretary of State concerning the conduct or acts of an Alabama Civil-law Notary will also be referred to the Alabama Bar for a determination by the Bar as to whether the complain alleges a violation of the rules of the Alabama Bar governing the conduct and discipline of lawyers.

(2) All complaints to the Office of the Secretary of State concerning the conduct or acts of an Alabama Civil-law Notary which on their face appear to establish facts which if proven true would constitute an act of misrepresentation or fraud in the creation or execution of an authentication instrument will be investigated by the Office of the Secretary of State to determine whether cause exists to suspend the Alabama Civil-law Notary's appointment or reprimand the Alabama Civil-law Notary.

(3) After investigation and upon a determination by the Secretary of State that one or more acts of misrepresentation, fraud or violation of these rules has been committed by an Alabama Civil-law Notary, the Secretary of State shall, after considering the extent of the fraud or

misrepresentation including the number of persons involved and the effect on those persons; the number of acts of misrepresentation or fraud; any financial loss or other injury that may have resulted; and the degree of culpability of the Alabama Civil-law Notary; order one or more of the following courses of action:

(a) Issue a letter of warning to the Alabama Civil-law Notary including the Office of the Secretary of State's findings;

(b) Order compliance with these rules;

(c) Order restitution;

(d) Order suspension of the appointment of the Alabama Civil-law Notary;

(e) Order revocation of the appointment of the Alabama Civil-law Notary;

(f) Refer the allegations to the Office of the Attorney General for criminal investigation; and/or

(g) Refer the allegations to the Alabama Bar for disciplinary proceedings.

(4) Any order under this rule which requires payment of restitution or results in the suspension or revocation of the appointment of an Alabama Civil-law Notary shall be accompanied by a notice of final agency action and the Alabama Civil-law Notary shall be entitled to a fair hearing in accordance with the provisions of the Alabama Administrative Procedures Act, Title 41, Chapter 22, Code of Ala. 1975.

(5) A former Alabama Civil-law Notary whose appointment has been finally revoked shall not be eligible for a new appointment as an Alabama Civil-law Notary for a period of at least five years.

(6) An Alabama Civil-law Notary may voluntarily resign from an appointment by notifying the Office of the Secretary of State in writing at the above address of the intention to do so. Any voluntary resignation from an appointment as an Alabama Civil-law Notary shall be permanent and the resigned Alabama Civil-law Notary may only resume

service as an Alabama Civil-law Notary after successfully completing a new application and examination process.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

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STATE OF ALABAMA
OFFICE OF THE SECRETARY OF STATE
CIVIL-LAW NOTARIES DIVISION
ADMINISTRATIVE CODE

CHAPTER 820-6-2
AUTHORIZED TRAINING AND EXAMINATION

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820-6-2-.01 Educational Programs.

(1) Persons or entities who wish to submit a proposed civil-law notary curriculum or course of study to the Office of the Secretary of State for consideration as to its acceptability by the Secretary of State may do so. Any such curriculum or course of study submitted for the Secretary of State's approval should incorporate all of the following elements:

(a) The nature and characteristics of notarial practice in civil-law jurisdictions including a review of the historical development of civil-law notarial practice;

(b) A comparison of notarial functions and the nature and characteristics of common-law notarial practice under Alabama law and civil-law notarial functions and practices pursuant to these rules and their supporting statutes;

(c) The similarities and differences between practicing as an Alabama Civil-law Notary and the traditional practice of law in the State of Alabama;

(d) The purposes of and uses for authentic acts, and the rules regulating the execution of authentic acts, administration of oaths, and taking of acknowledgments by Alabama Civil-law Notaries;

(e) Solemnization of marriage by an Alabama Civil-law Notary;

(f) Alabama laws relevant to practice as an Alabama Civil-law Notary;

(g) Rules regulating the Alabama Bar including the Rules of Lawyer Discipline and the Rules of Professional Conduct.

(h) The potential malpractice liability of an Alabama Civil-law Notary.

(2) The Office of the Secretary of State shall maintain a list of the currently approved Alabama Civil-law Notary education programs and shall make the list available upon request. Each education program shall be subject to annual renewal.

(3) Persons who have had a curriculum or course of study approved by the Office of the Secretary of State may also administer the Office of the Secretary of State's civil-law notary test under the Office of the Secretary of State's supervision, but may not charge a fee in excess of \$200 to any person for administering a test to that person. All test materials are confidential property of the Office of the Secretary of State and any person who compromises the confidentiality of the test materials or allows another to do so shall not in the future be authorized by the Office of the Secretary of State to serve as a test administrator.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

Ed. Note: Formerly 820-X-12-.02, as per certification filed January 10, 2001; effective February 14, 2001.

820-6-2-.02 Examination.

(1) An Alabama Civil-law Notary application shall be valid for a period of one year from the date on which the application was received by the Office of the Secretary of State during which time the applicant must complete the Alabama Civil-law Notary examination. If the applicant completes the examination, with a satisfactory score of 70%, within the one year period prescribed above, the applicant remains eligible for appointment as an Alabama Civil-law Notary even though the

appointment itself may occur more than one year after the date on which the application was received.

(2) After reviewing the application for completeness and accuracy of information, determining that all necessary documents accompany the application, and that the applicant meets the requirements of this rule and Act No. 99-449, the Office of the Secretary of State will provide the applicant with a certificate of eligibility to take the Alabama Civil-law Notary examination and a list of examination dates and corresponding examination locations.

(3) The applicant who has been certified as eligible must notify the Office of the Secretary of State at least two weeks in advance of any scheduled examination that the applicant intends to take a scheduled examination. If notice is not received, or if the notice is untimely, the applicant will not be admitted to the examination.

(4) Upon appearing at the examination location, and prior to entering the examination facility, the applicant must present to the examination authorities the certificate of eligibility issued to the applicant by the Office of the Secretary of State, a governmentally issued identification card which bears the applicant's picture, and pay the examination fee.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

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820-6-3-.01 Form And Content Of Signatures And Seals;
Registration Of Signatures And Seals.

(1) An Alabama Civil-law Notary's original hand-written signature and seal shall be registered with the Office of the Secretary of State. Such registration shall be accomplished by placing the original hand-written signature and seal on a Form ACLN-4 prescribed by the Office of the Secretary of State entitled "Alabama Civil-law Notary Signature and Seal," which is form is set forth in the Appendix to this Division, and by filing it with the Office of the Secretary of State. No Alabama Civil-law Notary shall take any official action or execute any document as an civil-law notary until his signature and seal has been properly registered.

(2) The Alabama Civil-law Notary's original handwritten signature and an original rubber stamp or embossed impression of the civil law notary's seal shall be affixed by the civil-law notary to all documents executed by the civil-law notary while acting as an Alabama Civil-law Notary under Act No. 99-449. The civil-law notary shall not allow any other person to sign or seal a document using the civil-law notary's official signature or seal.

(3) The civil-law notary's seal may be an embossing seal or a rubber stamp and may be circular or square in shape and shall not be more than two inches nor less than one inch in diameter if circular, or more than two inches on each side nor less than one inch on each side if square.

(4) A registered signature and seal may be changed by applying to the Office of the Secretary of State at the address listed above for an additional "Alabama Civil-law Notary Signature and Seal" form. While the preceding form shall remain on file, the new form and its contents shall supercede the old form. An application to change a signature or seal shall be considered an amendment to the notary's application and shall be accompanied by a processing fee of fifty dollars.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

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820-6-3-.02 The Alabama Civil-Law Notary's Protocol.

(1) An Alabama Civil-law Notary's protocol shall be maintained in a secure, fireproof location at the Alabama Civil-law Notary's principal place of business.

(2) The protocol shall contain an original copy or photocopy of each of the Alabama Civil-law Notary's authentic acts in date sequence, and an original photocopy of any supporting or related documents, which shall be permanently archived in the protocol. The protocol shall also contain, in date sequence, a photocopy or original copy of any document containing, incorporating or depending upon, an acknowledgment, oath or solemnization executed by the civil-law notary, which shall include a copy of any certificate made by the civil-law notary.

(3) The protocol shall contain or be accompanied by an index to its contents in date order. In addition to the date on which act, oath, acknowledgment, or solemnization was executed, each entry in the index shall identify the party or parties who paid the notary's fee.

(4) The protocol shall be available for inspection by the Office of the Secretary of State during reasonable business hours and copies of any documents contained in the protocol shall be furnished to the Office of the Secretary of State upon request. The contents of the protocol shall otherwise be

considered confidential and shall be made available only to persons who have a legal interest in a particular transaction.

(5) An Alabama Civil-law Notary who takes custody of the protocol of another Alabama Civil-law Notary's protocol because of suspension or incapacitation shall maintain the protocol until the suspension period expires or the incapacitation is relieved. When an Alabama Civil-law Notary takes custody of another Alabama Civil-law Notary's protocol because of revocation or death the custodial Alabama Civil-law Notary shall permanently maintain the protocol in accordance with this rule.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

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CHAPTER 820-6-4
AUTHENTIC ACTS AND OTHER DUTIES

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820-6-4-.01 Form And Content Of Authentic Acts

820-6-4-.01 Form And Content Of Authentic Acts. Each authentic act shall contain:

(1) The handwritten signature and original seal of the Alabama Civil-law Notary.

(2) The typewritten full name of the Alabama Civil-law Notary in the form in which the notary's application for appointment was originally submitted to the Office of the Secretary of State and the words "Alabama Civil-law Notary" typewritten in the English language.

(3) The current business address and telephone number of the Alabama Civil-law Notary typewritten in the English language.

(4) A statement typewritten in the English language that "Under the laws of the State of Alabama, Act No. 99-449, this authentic act is legally equivalent to the authentic acts of civil-law notaries in all jurisdictions outside the geographic borders of the United States and is issued on the authority of the Alabama Secretary of State."

(5) The date on which the authentic act was signed and sealed by the Alabama Civil-law Notary and the signatures of the parties to the transaction.

(6) All words or statements required to appear in the English language may also appear in any other language.

(7) An authentic act may also contain such other information or material as may be required to satisfy any legal

requirements, or to satisfy ethical or legal concerns, or the business needs of the parties to the transaction or of the Alabama Civil-law Notary including statements attesting to the signatures on accompanying documents if executed in the Alabama Civil-law Notary's presence, and any witnessing signatures; a statement confirming the legality of the transaction and the contents of any documents and any limitations thereon; any facts contained in the documents or relied on by any interested party and any limitations thereon.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§36-20-50, et seq.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

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